

United States Bankruptcy Court for the Eastern District of Virginia

Local Bankruptcy Rules



Effective January 1, 1997

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RULE 1001-1 SCOPE OF RULES

The Supreme Court of the United States has, pursuant to 28 U.S.C. §2075, prescribed rules of procedure in bankruptcy cases. Federal Rule of Bankruptcy Procedure 9029 provides that courts may adopt local rules that are not inconsistent with the Federal Rules of Bankruptcy Procedure.

These Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia are hereby prescribed and promulgated as Local Rules governing practice and procedure before the Court. They are to be cited as the “Local Bankruptcy Rules” except that individual rules may be cited in the following form: “Local Bankruptcy Rule _____”, or “LBR_____”.

RULE 1002-1 PETITIONS - COPIES

(A) ***Chapter 7, 12 and 13 Petitions***: An original and three copies of all chapter 7, 12 and 13 petitions shall be filed with the Court.

(B) ***Chapter 9 and 11 Petitions***: An original and five copies of all chapter 9 and 11 petitions shall be filed with the Court.

RULE 1002-2 NOTICE TO INDIVIDUAL DEBTORS OF CHAPTERS AVAILABLE UNDER BANKRUPTCY CODE

(A) ***Requirement***: Section 342(b) of Title 11 of the United States Code states that “Prior to the commencement of a case under this title by an individual whose debts are primarily consumer debts, the Clerk shall give written notice to such individual that indicates each chapter of this title under which such individual may proceed.”

(B) ***Distribution to Counsel***: To comply with this requirement, the Clerk is directed to provide such notice on approved forms and to distribute such notice to all members of the Bar who regularly file bankruptcy cases.

(C) ***Copy to be Filed with Petition***: Any individual debtor who files a petition in this Court must file with such petition the form referred to above, properly signed by the debtor(s).

(D) ***RESERVED***

(E) ***Inapplicability to Chapter 12 Cases***: This Local Rule does not apply to cases filed under chapter 12 of the Bankruptcy Code.

RULE 1006-1 FEES: INSTALLMENT PAYMENTS

(A) ***Application***: Any individual debtor desiring to pay the filing fee in installments must file an application with the Clerk substantially conforming to that local form entitled “Application to Pay Filing Fee in Installments-Eastern District of Virginia”. The application form is available from the Clerk’s office. To be in substantial conformity, the application must:

- (1) include a statement that the debtor has not paid any money or transferred any property to the debtor’s attorney or any other person for services in connection with the bankruptcy, nor will any such payment be made until the filing fee is paid in full,
- (2) include a statement that the debtor understands that the case will be dismissed if any installment payment is not received by the date due,
- (3) include a schedule of payments as prescribed in (B) below, and
- (4) be signed by both the debtor and the debtor’s attorney (if any).

(B) ***Schedule of Payments***: Any Application to Pay Filing Fee in Installments shall propose a payment plan in accordance with the following schedule:

	At Filing	1 Month After Filing	2 Months After Filing
Chapter 7	\$ 75	50	50
Chapter 11	\$400	400	--
Chapter 12	\$ 75	75	50
Chapter 13	\$ 70	45	45

Payments are due as shown, on the same day of the month as the date on which the petition was filed. If that date falls on a day that the Court is closed, payment is due not later than on the next business day. The initial payment for chapter 7 and 13 cases includes the \$30 administrative fee which is due at the time of filing of the petition.

(C) ***Entry of Order Approving Installment Fees***: If an Application to Pay Filing Fee in Installments conforms to the requirement of this Local Rule, the Clerk shall enter an order approving the same.

(D) ***Failure to Pay Installment***:

- (1) ***Rejection of Petition***: If a petition is filed without full payment of the filing fee or without an Application to Pay Filing Fee in Installments, or if an Application to Pay Filing Fee in Installments does not conform with

the requirements of F.R.B.P. 1006 and this Local Rule, the Clerk shall reject the petition.

(2) ***Dismissal of Case***: The Clerk shall issue an order of dismissal in any case where the initial installment payment required under F.R.B.P. 1006 and paragraph (B) of this Local Rule has not been received by the next business day after the petition was filed. In any case where a subsequent installment payment has not been received by the due date, the Clerk shall issue an order of dismissal.

(E) ***Notice of Possible Dismissal***: The Clerk is to give notice of the dismissal provisions of this Local Rule to a debtor or debtor's counsel at the time an Application to Pay Filing Fee in Installments is filed.

Comment

Changes effective 1/1/97

Paragraph (D) is substantially rewritten to clarify when a petition shall be rejected and when a case shall be dismissed for fee related deficiencies.

RULE 1007-1 LISTS, SCHEDULES AND STATEMENTS

(A) ***Dismissal of Case***: In any case where lists, schedules and statements are not filed at the time of the filing of a voluntary petition, the Clerk shall enter an order of dismissal unless the same are filed within fifteen days after the filing of the petition, or a motion to extend time for filing lists, schedules and statements has been filed prior to the expiration of the fifteen day period.

(B) ***Motion to Extend Time***: Such motion to extend time for filing shall be accompanied by a proof of service evidencing notice to the United States Trustee, any appointed trustee, any official committee appointed in the case and all creditors. Where there are more than thirty creditors in the case, the debtor need only provide notice of the motion to extend time to the ten largest secured creditors, the twenty largest unsecured creditors and any official committee appointed in the case. The motion to extend time shall give notice that parties objecting to the extension of time shall file written objections with the Court within five business days after service of the motion by the debtor.

(C) ***Order Extending Time***: Where no objections to the motion to extend time are timely filed with the Court, the Clerk shall enter an order extending time for filing to not later than the fourth business day prior to the scheduled meeting of creditors. If the lists, schedules and statements are not filed by said date, the Clerk shall enter an order dismissing the case.

(D) ***Objections -- Determination***: Where objections are filed to the motion for extension of time, the Clerk shall submit the motion and objections to the Court for determination of the motion.

(E) ***Hearing on Further Extension***: Any debtor requesting an extension of time to file lists, schedules and statements after four business days prior to the scheduled meeting of creditors must request a hearing date and give notice to parties as set forth in paragraph (B) of this Local Rule and file a proof of service with the motion to extend time.

(F) ***Notice of Possible Dismissal***: The Clerk shall give notice of this Local Rule to a debtor or debtor's counsel who files a petition not accompanied by all required lists, schedules and statements. The Clerk shall also give notice of this Local Rule in the meeting of creditors notice.

(G) ***Number of Copies***: The number of copies of the lists, schedules and statements to be filed shall correspond to the number of copies of the petition required by Local Rule [1002-1](#).

(H) ***List of Creditors Holding 20 Largest Unsecured Claims***: To assist the United States Trustee in appointing a creditors' committee, the list required by F.R.B.P. 1007(d) shall include the amount owed, by amount of debt ranging from the largest creditor in amount owed to the smallest creditor in amount owed. The list shall also include the name and telephone number of a contact person or representative of the unsecured creditor.

RULE 1007-3 STATEMENT OF INTENTION

(A) ***Requirement***: Pursuant to 11 U.S.C. §521(2)(A), each individual chapter 7 debtor with consumer debts secured by property of the estate shall file a Chapter 7 Individual Debtor's Statement of Intent ["Statement of Intent" hereafter]. The original statement shall be accompanied by such copies or proof of service as required by paragraph (B) of this Local Rule. The statement shall be filed within thirty days after the petition is filed or on or before the meeting of creditors, whichever is earlier.

(B) *Service*

(1) *Upon Trustee*

(a) ***Prior to Receipt of Meeting of Creditors Notice***: The debtor shall file with the original Statement of Intent a photocopy to be routed by the Clerk to the United States Trustee. No proof of service on the trustee is required. Such service shall satisfy the requirement of service on the trustee as specified in F.R.B.P. 1007(b)(2).

(b) ***After Receipt of Meeting of Creditors Notice:*** The debtor shall serve a copy of the Statement of Intent on the trustee appointed in the case. The original Statement of Intent filed with the Court shall be accompanied by proof of service evidencing proper service on the trustee.

(2) ***Upon Affected Creditors:*** Prior to filing the Statement of Intent with the Court, the debtor shall serve a copy of the same upon each creditor listed thereon.

(C) ***Dismissal of Case:*** The Clerk shall monitor the filing of a Statement of Intent and enter an order of dismissal in any applicable chapter 7 case where neither the Statement of Intent nor a motion to extend the time for filing the same has been filed within thirty days after the date of the filing of the petition, or on or before the date of the meeting of creditors, whichever is earlier.

(D) ***Motion to Extend Time:*** A motion to extend time for filing a Statement of Intent shall be accompanied by proof of service evidencing service on the United States Trustee, any appointed trustee, and all affected secured creditors. The motion to extend time shall state that any party objecting to the extension of time must file a written objection with the Clerk within five business days after service of the motion.

(E) ***Order Extending Time:*** Where no objections to the aforesaid motion are timely filed, the Clerk shall enter an order extending time for filing to ten days after the scheduled meeting of creditors. If the Statement of Intent is not filed by the tenth day after the scheduled meeting of creditors, the Clerk shall enter an order dismissing the case.

(F) ***Objections -- Determination:*** Where objections are filed to the motion for extension of time, the Clerk shall submit the motion and objections to the Court for determination.

(G) ***Hearing on Further Extension:*** Any debtor requesting an extension of time to file the Statement of Intent more than ten days after the scheduled meeting of creditors must request a hearing date and give notice to parties as set out in paragraph (B) of this Local Rule and file proof of service with the motion to extend time.

(H) ***Notice of Possible Dismissal:*** The Clerk shall give notice of this Local Rule to a debtor or debtor's counsel who file a petition unaccompanied by the Statement of Intent.

RULE 1009-1 AMENDMENTS TO LISTS & SCHEDULES

(A) ***Notice to Affected Parties:*** Where the debtor files any amendment to the petition, lists, schedules or statements previously filed, the debtor shall send notice of the same to the United States Trustee, any trustee appointed, and to any and all

entities affected by the amendment. Where the debtor adds creditors to the case by supplementing either the schedules or the list of creditors previously filed, the debtor shall serve upon each newly-listed creditor a copy of the following:

- (1) the amendment,
- (2) the meeting of creditors notice,
- (3) the order granting discharge (if any),
- (4) any other filed document affecting the rights of said creditor, and
- (5) the notice required by Local Rule 3003-1 (B)

(B) *Filing of Amendment with Clerk's Office:*

- (1) Each amendment shall be filed in original only and accompanied by:
 - (a) ***Amendment Cover Sheet:*** a properly completed Amendment Cover Sheet. A form Amendment Cover Sheet shall be available from the Clerk's Office upon request, and, if applicable:
 - (b) ***List of Creditors Added:*** When an amendment adds creditors to a bankruptcy case, the amendment shall be accompanied by a list of the creditors so added. The list shall be in the format specified by the Clerk's Office. Instructions for preparing the list are available from the Clerk's Office upon request.

(C) *Adding Creditors in a Closed Case:* If the case is a closed chapter 7 case with no distribution to creditors, a "Certificate and Affidavit for Adding Creditors to Schedules in a Closed Case" must be completed and filed. This form is available from the Clerk's Office upon request.

Comment

Changes effective 1/1/97

Paragraph (C) is added to include the Court's practice regarding adding creditors in closed chapter 7 cases.

RULE 1014-2 DECLARATION OF DIVISIONAL VENUE

At the time of filing a bankruptcy petition, counsel, or a *pro se* debtor, shall file with the petition a properly completed Declaration of Divisional Venue form. This form will be provided by the Clerk's Office upon request.

RULE 1015-1 JOINT ADMINISTRATION OF ESTATES

In all joint petitions filed with the Court, the case will be administered through joint administration of the estates unless the trustee or other interested party files an objection to joint administration within ten days after the meeting of creditors and gives notice of a hearing date on such objection.

RULE 1017-1 CONVERSION

(A) ***Schedule of Unpaid Debts***: Within fifteen days after conversion of a case, the debtor shall file either:

(1) a schedule of unpaid debts incurred after commencement of the original bankruptcy case, and a list of creditors in the format required by the Clerk's Office, or

(2) a certification that no unpaid debts have been incurred since the commencement of the case.

(B) ***Filing of Schedule of Unpaid Debts***: If the debtor fails to file the schedule and list referred to in paragraph (A)(1) of this Local Rule within five days of the date of conversion of the case, any such subsequent filing shall be treated as an amendment under Local Rule [1009-1](#) and the debtor shall give all required notices.

(C) ***RESERVED***

(D) ***Report of the Debtor in Possession or Trustee***: The debtor in possession or trustee in a superseded case shall, within thirty days after conversion of the case, file the final report and account required by F.R.B.P. 1019(5). The order of conversion is to direct such filing. Upon failure to file the required report and account within thirty days, the Clerk shall certify the matter to the Court for appropriate action.

RULE 1017-2 DISMISSAL FOR SUBSTANTIAL ABUSE OF CHAPTER 7

The Clerk shall give notice of any hearing on possible dismissal under 11 U.S.C. §707(b). The United States Trustee and the trustee appointed in the chapter 7 case shall appear and be heard.

**RULE 1020-1 SMALL BUSINESS CHAPTER 11
REORGANIZATION CASES**

(A) ***Election to be Considered a Small Business in a Chapter 11 Reorganization Case.*** In a chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election no later than forty-five days after the date of the order for relief or by a later date as the Court, for cause, may fix.

(B) ***How Election Made:*** Statement of Election. A debtor's written statement of election shall state that the debtor is a small business as defined in 11 U.S.C. §101(51C) and that the debtor elects to be considered a small business under 11 U.S.C. §1121(e). A debtor's election must be made by filing with the Court a notice of the election with a certification that service of the notice was made on all creditors, parties in interest, and the United States Trustee.

Comments

Changes effective 1/1/97

This rule is new and addresses the recent change in
Title 11 U.S.C.

RULE 1071-1 DIVISIONS

(A) ***District:*** The Eastern District of Virginia consists of the counties, cities and towns as set forth in 28 U.S.C. §127, and the places for holding court are therein prescribed as Alexandria, Newport News, Norfolk, and Richmond.

(B) ***Divisions:*** This district shall be divided into four divisions, to be designated as the Alexandria, Newport News, Norfolk, and Richmond Divisions. The place for holding court for each of said divisions shall be the city whose name the division bears, and the territory comprising, and embraced in, each of the said divisions shall be as follows:

(1) The Alexandria Division shall consist of the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, and the counties of Arlington, Fairfax, Fauquier, Loudoun, Prince William, and Stafford, and any other city or town geographically within the exterior boundaries of said counties.

(2) The Newport News Division shall consist of the cities of Hampton, Newport News, Poquoson, and Williamsburg, and the counties of Gloucester, James City, Mathews, and York, and any other city or town geographically within the exterior boundaries of said counties.

(3) The Norfolk Division shall consist of the cities of Cape Charles, Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk, and Virginia Beach,

and the counties of Accomack, Isle of Wight, Northampton, and Southampton, and any other city or town geographically within the exterior boundaries of said counties.

(4) The Richmond Division shall consist of the cities of Colonial Heights, Emporia, Fredericksburg, Hopewell, Richmond, and Petersburg, and the counties of Amelia, Brunswick, Caroline, Charles City, Chesterfield, Dinwiddie, Essex, Goochland, Greensville, Hanover, Henrico, King and Queen, King George, King William, Lancaster, Lunenburg, Mecklenburg, Middlesex, New Kent, Northumberland, Nottoway, Powhatan, Prince Edward, Prince George, Richmond, Spotsylvania, Surry, Sussex, and Westmoreland, and any other city or town geographically within the exterior boundaries of said counties.

(5) All of the waters, and the lands under such waters, adjacent and opposite to any city, county or town shall be a part of the division of which said city, county or town is a part, and wherever there are any waters between any city, county or town which are in different divisions, then such waters and land under them shall be considered to be in both divisions.

(6) In the event of any annexation or merger of any cities and/or counties, the land lying within the merged or annexed area shall be deemed within the exterior boundaries of the original city or county to the same intent and purpose as if the annexation or merger had not occurred, unless otherwise modified by local rule.

RULE 1074-1 CORPORATIONS

A voluntary petition or consent to an involuntary petition filed by a corporation shall be signed by an attorney and accompanied by a copy of the corporate resolution or other appropriate authorization, duly attested to, authorizing such filing.

RULE 2002-1 NOTICE TO CREDITORS & OTHER INTERESTED PARTIES

(A) *Proponent to Give Notice*

(1) ***Generally:*** Except as stated elsewhere in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these Local Rules, or by order of the Court, the proponent of any action shall give notice to all parties affected thereby.

(2) ***Of Plan in Reorganization Case***: All proponents of plans in reorganization cases shall give the notice required under F.R.B.P. 2002(b), in a form approved by the Clerk of Court, and shall file proof of service with the Court.

(B) ***Authority for Agreements to Give Notice***: The Clerk is authorized to enter into agreements with debtors wherein they will provide all required notices to interested parties in cases where the interests of justice and efficiency are served thereby. The Clerk shall approve the form of all such notices, and proof of service shall be filed with the Court.

(C) ***Notice by Publication***

(1) ***Place of Publication***: All notices requiring advertisement shall be published at least once unless otherwise required by rule or statute, and such notice shall be published in newspapers of general circulation as follows:

(a) In proceedings at Alexandria, in the *Alexandria Gazette Packet*, the *Alexandria Journal* or the *Washington Post*.

(b) In proceedings at Newport News, in the *Daily Press*.

(c) In proceedings at Norfolk, in the *The Virginian-Pilot*.

(d) In proceedings at Richmond, in the *Times-Dispatch*.

(2) ***Time of Publication***: All notices shall be published at least six business days prior to requiring any action, and a longer notice shall be given when required by rule or statute or where deemed proper by the Court.

(D) ***Notices to U.S. Trustee in Chapter 11 Cases***: Unless otherwise specifically directed by the Court or the United States Trustee, a party in interest in a case commenced under chapter 11 of the Bankruptcy Code shall serve upon the United States Trustee copies of all papers filed with the Court except proofs of claim.

(E) ***Inspection of Mailing Labels***: Where any person orders and receives mailing labels from the Clerk's Office, it shall be the responsibility of that person to inspect the labels to ensure that all parties required to receive notice are included thereon.

(F) ***Notices to Equity Security Holders***: Unless otherwise ordered, the debtor is responsible for sending notice of the filing of the bankruptcy to equity security holders except where either:

(1) the list of equity security holders is filed with the petition, or

(2) the equity security holders are included on the list of creditors filed with the petition.

(G) ***Requirement of Proof of Service***: At the end of each pleading, motion or other paper required to be served upon a party, there shall be a proof of service signed by counsel (or the *pro se* party) certifying that copies were served and detailing the date and manner of service. The proof of service shall state by name the parties served if less than all parties were served.

(H) ***Definition of “Business Day”***: As used in these Local Rules, “business day” shall mean any day other than a Saturday, Sunday, federal holiday or any other day on which the Clerk’s Office is closed.

RULE 2003-1 MEETING OF CREDITORS & EQUITY SECURITY HOLDERS

(A) ***Policy***: At the time of the original filing, the debtor or debtor’s counsel may request information concerning the scheduled date and time of the meeting of creditors. If the debtor or debtor’s counsel is aware that he or she will be unable to attend at the scheduled date and time, debtor or debtor’s counsel may at the time of the original filing request a different date for the meeting of creditors. The Clerk may grant such a request to a date within forty days of filing.

(B) ***Dismissal for Failure to Appear***: Notice of possible dismissal for failure to attend the meeting of creditors shall be provided in the notice of §341 meeting. Upon certification by the United States Trustee that either debtor or debtor’s counsel has not appeared at a meeting of creditors, or has appeared not prepared to proceed, the Clerk shall issue an order dismissing the case.

(C) ***Rescheduled Meeting of Creditors***: A meeting of creditors may be rescheduled not more than once by the United States Trustee. The attorney for the debtor(s), or if *pro se*, the debtor(s), shall obtain the date and time of the rescheduled meeting of creditors from the trustee or United States Trustee and shall forthwith give written notice of the rescheduled meeting of creditors to all creditors and other parties in interest. Notice shall be given in a form approved by the Clerk of Court. The attorney for the debtor(s), or if *pro se*, the debtor(s) shall file proof of such service with the Clerk within five business days of the original date of the meeting of creditors.

RULE 2015-(a)-1 REQUIRED REPORTS OF DEBTORS IN POSSESSION AND TRUSTEES

(A) ***Operating Business Reports***: When the business of the debtor is authorized to be operated, the trustee in a chapter 7 or 11 case, the debtor in possession in a chapter 11 or 12 case, or the debtor in a chapter 13 case in which the debtor is engaged in business, shall file with the United States Trustee, with the Court and with appropriate governmental units such reports and summaries as

are required under 11 U.S.C. §704(7). Debtors in possession or trustees in chapter 11 cases shall continue to file operating reports with the Court and the United States Trustee, on at least a calendar quarterly basis, until the case is converted, dismissed, or a final decree has been entered by the Court.

(B) **Chapter 7 Liquidation Reports:** The trustee in a chapter 7 business case in which the business is not being operated shall file semi-annual liquidation reports with the United States Trustee and with the Court.

(C) **Chapter 11 Final or Interim Report:** Chapter 11 cases with confirmed plans shall follow the District Chapter 11 Closing Procedure to prepare and file the final report and motion for final decree. The final report, or an interim report setting forth the status of the case and the reason why the case cannot be closed, shall be filed with the Court and a copy served on the United States Trustee within six months after entry of the confirmation order.

(D) **Clerk to Give Notice:** When the United States Trustee seeks to bring matters of case administration or estate administration before the Court, the Clerk shall give appropriate notice.

Comments

Changes effective 1/1/97

Paragraph (A) was amended to clarify continued reporting requirements in chapter 11 cases.

Paragraph (C) incorporates parts of the District Chapter 11 Closing Procedure.

RULE 2016-1 COMPENSATION OF PROFESSIONALS

(A) **Interim Compensation:** The party seeking interim compensation or reimbursement for services under F.R.B.P. 2016 shall obtain a hearing date from the Court and shall give notice as required in F.R.B.P. 2002(a)(6) and 2002(c)(2). The party shall file with the Court proof of service evidencing proper notice of the scheduled hearing.

(B) **Attorney's Disclosure Statement:** Pursuant to 11 U.S.C. §329 and F.R.B.P. 2016, each attorney representing a debtor under any chapter of the Bankruptcy Code shall file an Attorney's Disclosure Statement, irrespective of the amount of fees received or requested. The Disclosure Statement, if not filed with the petition, shall be filed not later than fifteen days after the filing of the petition. The Statement shall be filed in original only, with a certificate evidencing service upon the United States Trustee and the case trustee, if any.

(C) *For Debtor's Attorney in Chapter 13 Case:*

(1) ***Generally:*** The Court may award fees to the attorney for a debtor in a chapter 13 case with or without a hearing, at the Court's discretion. Any application for compensation filed under this provision must include the applicant's statement that the chapter 13 plan provides sufficient reserves or may be extended in time so that the payment(s) requested may be made without prejudice to any creditor.

(2) *Fees and Expenses Requested Not in Excess of \$1,250:*

Where the application for compensation and reimbursement of expenses does not exceed \$1,250 in the aggregate, the Court may award the same, with or without a hearing, upon the following notice:

(a) ***Notice:*** The debtor's attorney shall serve a copy of the application on the debtor and the standing trustee, along with notice that they have ten days in which to file any objection.

(b) ***Proof of Service:*** With the application for compensation, the debtor's attorney shall file proof of service evidencing proper service under paragraph (C)(2)(a) of this Local Rule.

(3) ***Fees and Expenses Requested in Excess of \$1,250:*** Where the application for compensation and reimbursement of expenses exceeds \$1,250 in the aggregate, the Court may award the same, with or without a hearing, upon the following notice:

(a) ***Notice:*** The debtor's attorney shall serve a copy of the application on the debtor, the standing trustee and all creditors, along with notice that they have ten days in which to file any objection.

(b) ***Proof of Service:*** With the application for compensation, the debtor's attorney shall file proof of service evidencing proper service under paragraph (C)(3)(a) of this Local Rule.

Comments

Changes effective 1/1/97

Amount of aggregate compensation is increased to \$1,250.

RULE 2090-1 ATTORNEYS - ADMISSION TO PRACTICE

(A) ***Bar of the Court:*** Those attorneys who are admitted to practice before this Court shall comprise the Bar of the United States Bankruptcy Court for the Eastern District of Virginia.

(B) ***Qualifications for Admission to Practice:*** An attorney, to qualify for admission to practice before this Court, shall be a member in good standing of the Bar of the State of Virginia and be administered by the Court the oath of admission, upon the filing of an acceptable application to practice before the Court.

(C) ***Application and Procedure for Admission:*** Every attorney desiring admission to practice before this Court shall file with the Clerk written application therefor accompanied by an endorsement by two qualified members of the Bar of this Court stating that the applicant is of good moral character and professional reputation and is qualified to practice bankruptcy law. The Clerk of this Court shall supply such application upon request. As a part of the application, the applicant shall certify that the said applicant has within ninety days prior to the application read or reread (1) the Federal Rules of Civil Procedure (F.R.C.P.), (2) the Federal Rules of Evidence, (3) the Federal Rules of Bankruptcy Procedure (F.R.B.P.), and (4) the Local Rules of this Court.

(D) ***Presentation in Court:*** A qualified member of the Bar of this Court shall examine the credentials of the applicant and, if found sufficient, present the applicant to the Court for admission. If admitted, the applicant shall in open court take the oath required for admission, sign the roll of the Bar of this Court and, thereafter, be issued a certificate of qualification by the Clerk.

(E) ***Other Attorneys:***

(1) ***Western District of Virginia:*** Any attorney who is a member in good standing of the Bar of the United States Bankruptcy Court for the Western District of Virginia shall be permitted to practice in the courts of the Eastern District of Virginia upon filing with the Clerk of this Court:

(a) a certificate of the Clerk of the United States Bankruptcy Court for the Western District of Virginia stating that said attorney is a member in good standing of the Bar of that District, and

(b) a certification from the applicant stating that said attorney has, within the preceding ninety days, read the Local Rules of this Court.

(2) ***Foreign Attorneys:*** An attorney from another state, the District of Columbia or a territory of the United States may appear and practice in cases upon motion of a member of the Bar of this Court, provided that in all appearances said attorney shall be accompanied by a member of this Bar. Except where a party is not represented by counsel, any pleading or notice required to be signed by counsel must be signed by counsel who is a member of the Bar of this Court, who shall have entered an appearance of record in the case, with the office address in the state where notice can be served, and who shall have such authority that the Court can deal with that attorney alone in all matters connected with the case. Such appearance shall not be withdrawn without leave of the Court. Service of notice or other proceedings on the attorney shall be equivalent to service on the

client. Where a party is not represented by counsel, the party shall include on each pleading an address within the district where notice can be served.

(3) **Attorneys for the United States and any State:** The following may appear and practice in this Court in the performance of their official duties: The Attorney General of the United States, any Deputy or Assistant Attorney General, any United States Attorney, Assistant United States Attorney, or attorney employed by a department or agency of the United States Government and authorized by that department or agency to represent it in court; and the Attorney General, any Deputy or Assistant Attorney General, any Commonwealth Attorney, and any Assistant Commonwealth Attorney of any state.

(F) **Attorneys Filing Pleadings:** All counsel presenting papers, suits or pleadings for filing, other than a request for notices under F.R.B.P. 2002(g), or making an appearance, must be members of the Bar of this Court, or must have counsel who are members of the Bar of this Court join in the pleading by endorsement. Any counsel who joins in a pleading will be held accountable for the case by the Court.

(G) **Withdrawal of Appearance:** No attorney who has entered an appearance in any case or proceeding shall withdraw as counsel except for cause, on order of the Court after reasonable notice to the party on whose behalf the attorney has appeared.

(H) **Appearance at All Proceedings:** Any attorney who is counsel of record for a debtor, or debtors, in a bankruptcy case must be present and appear at all Court proceedings involved in the case unless excused or given permission to withdraw by order of the Court.

(I) **Professional Ethics:** The ethical standards relating to the practice of law in this Court shall be the Canons of Professional Ethics of the American Bar Association and the Virginia State Bar now in force and as hereafter modified or supplemented.

(J) **Courtroom Decorum:** Counsel shall at all times conduct and demean themselves with dignity and propriety. When addressing the Court, counsel shall rise unless excused therefrom by the Court. All statements and communications to the Court shall be clearly and audibly made from a standing position at the attorneys' lectern facing the Court or the witness. Counsel shall not approach the bench unless requested to do so by the Court or unless permission is granted upon the request of counsel.

Examination of witnesses shall be conducted by counsel standing behind the lectern. Counsel shall not approach the witness except for the purpose of presenting, inquiring about, or examining the witness with respect to an exhibit. Only one attorney for each party may participate in the examination or cross-examination of a witness.

(K) ***Third-Year Law Student Practice Plan***: If the United States District Court for the Eastern District of Virginia has in effect any plan for third-year law student practice, the provisions of said plan apply equally to practice before this Court.

(L) ***Previous Practice Clause***: All members in good standing of the Bar of the United States District Court for the Eastern District of Virginia as of September 30, 1979, shall be deemed to be members of the Bar of the United States Bankruptcy Court for the Eastern District of Virginia.

Comment

Changes effective 1/1/97

Paragraph (E)(3) is added to authorize Federal and State Attorney Generals and their assistants to appear and practice in this court in the performance of their official duties.

RULE 3003-1 CLAIMS IN CHAPTER 11 CASES

(A) ***Claims Bar Date***: The last date for the filing of claims, other than a claim of a governmental unit, in a chapter 11 case shall be ninety days after the date first scheduled for the meeting of creditors. The last date for a governmental unit to file a proof of claim shall be one hundred eighty days after the petition is filed in a voluntary chapter 11 case or an order for relief is entered in an involuntary chapter 11 case. The Clerk shall give notice of the date in a separate notice of bar date mailed with the notice for the meeting of creditors.

(B) ***Claims Scheduled as Disputed, Contingent or Unliquidated***: The debtor in a chapter 11 case shall serve creditors whose claims are listed on the schedules as disputed, contingent or unliquidated with a notice of the fact within fifteen days after the later of:

- (1) the conversion of the case to chapter 11;
- (2) the filing of the schedules of liabilities; or
- (3) the filing of an amendment to the schedules of liabilities adding such creditors. The debtor shall file with the Court a certification that service of the notice was made on the affected creditors within five days after the notice is served.

Comments

Changes effective 1/1/97

The Clerk is directed to provide a separate notice of the claims bar date in chapter 11 cases. Paragraph (B) is new.

RULE 3011-1 UNCLAIMED FUNDS

(A) All unclaimed funds collected by the Court shall be immediately deposited into the United States Treasury and not into the registry of the Court.

(B) ***Disposition of Unclaimed Funds***

(1) ***Requirements for Pro Se Creditor/Claimant - Self Representation-*** A request for return of an unclaimed dividend must be in writing and in the form of a motion filed with the Court. Creditor/claimant must sign a certificate of mailing reflecting that the motion was served on the United States Attorney for the Eastern District of Virginia, pursuant to 28 U.S.C. §2042, and on the United States Trustee. The motion must state:

- (a) the name, address, telephone number and a brief history of the creditor from the filing of the claim to present (to reflect possible reasons for the funds not being deliverable at the time of original distribution);
- (b) whether the claim has been assigned to the creditor, and, if so, copies of all documents evidencing assignment must be appended to the motion; and,
- (c) whether or not the creditor/claimant believes that any other party may be entitled to the funds.

The motion must contain a certificate of a notary public, which bears the seal of the notary, that such notary has examined the motion and documents presented by the creditor/claimant establishing identity, such as: a birth certificate, unexpired passport, valid driver's license, or original social security card.

If the creditor/claimant is a corporation, it must be represented by a member of the bar of this Court. In addition, if the creditor/claimant is a successor corporation, creditor/claimant shall provide documents establishing the chain of ownership of the original corporate claimant as proof of entitlement to the claim.

(2) ***Requirements for the Representative of the Estate of a Deceased Claimant:*** The representative must comply with all requirements in paragraph (1) above. Certified copies of all probate documents to substantiate the representative's right to act on behalf of the decedent's estate must be provided as proof of entitlement.

(3) ***Requirements for any other individual representing the interest of creditor/claimant:*** The representative must be an attorney admitted to practice in accordance with these Local Rules. The attorney must file a motion with the Court for an order authorizing return of an unclaimed dividend pursuant to F.R.B.P. 9013. The motion must contain the name, address, telephone number and brief history of the creditor from the filing of the claim to present (to reflect possible reasons for the funds not being deliverable at the time of original distribution). If applicable, proof of any sale of the company, new and prior owners, a copy of the terms of any purchase agreement or stipulation by prior and new owners of right of ownership to the unclaimed funds must be provided. If the claim has been assigned to the claimant, copies of all documents evidencing assignment must be appended to the motion.

The motion must state whether or not the moving party believes that any other party may be entitled to the funds.

Movant must sign a certificate of mailing reflecting that the motion was served on the United States Attorney for the Eastern District of Virginia and on the United States Trustee.

An original power of attorney from the creditor/claimant authorizing the attorney to represent the interest of the creditor/claimant must be attached to the motion.

(4) ***Action on Motion:*** Twenty days following receipt of the above documentation, and if no objections have been filed, the Clerk shall prepare and submit the appropriate order to the Court. Any payment made to a claimant represented by an attorney will be issued jointly to claimant and the attorney and will be mailed to the attorney.

RULE 3015-1 CHAPTER 12 PLAN

(A) ***Time for Filing:*** The debtor may file a chapter 12 plan with the petition. If a plan is not filed with the petition, it shall be filed within ninety days thereafter unless the Court, pursuant to 11 U.S.C. §1221, extends the time for filing. Any motion for extension of time to file a plan shall be filed prior to the expiration of the deadline for which the debtor seeks an extension.

(B) ***Objections:*** Objections to confirmation of the plan shall be filed with the Court and served on the debtor, the debtor's attorney, the trustee, and on any other entity designated by the Court, not less than five business days prior to the scheduled confirmation hearing.

(C) **Hearing:** After notice as provided in subdivision (D) of this Local Rule, the Court shall conduct a hearing within the time prescribed by 11 U.S.C. §1224 and rule on confirmation of the plan. If no objection is timely filed, the Court may determine that the plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on those issues.

(D) **Notice:** The debtor shall send notice of the hearing on confirmation to all creditors, the chapter 12 trustee, and equity security holders. The notice shall include the time fixed for filing objections to the proposed plan. Unless the Court fixes a different period, notice of the hearing shall be given not less than twenty days before the hearing. A copy of the plan shall accompany the notice. Forthwith upon the giving of such notice, the debtor shall file proof of service with the Clerk.

(E) **Order of Confirmation:** The debtor shall prepare a proposed Order of Confirmation which recites the Court's findings under 11 U.S.C. §1225. Notice of entry thereof shall be mailed promptly by the Clerk, or some other person as the Court may direct, to the debtor, the trustee, all creditors, all equity security holders, and other parties in interest.

(F) **Retained Power:** Notwithstanding the entry of the Order of Confirmation, the Court may enter all orders necessary to administer the estate.

(G) **Dismissal:** The Clerk is to monitor the filing of chapter 12 plans. If the debtor does not, within ninety days after filing the chapter 12 petition, file either a plan or a motion to extend the time to file a plan, the Clerk shall enter an order dismissing the chapter 12 case.

(H) **Notice of Dismissal Provision:** The Clerk is directed to give notice of the dismissal provision of this Local Rule to the debtor or debtor's attorney not filing a plan with the petition. The Clerk shall also give notice of this Local Rule in the meeting of creditors notice.

RULE 3015-2 CHAPTER 13 PLAN

(A) **Form of Plan:** The only acceptable form for a chapter 13 plan shall be that form approved by the Court for use in the Eastern District of Virginia and available from the Clerk's Office upon request.

(B) **Filing of Plan:**

(1) **Requirement:** The debtor shall file a chapter 13 plan, in the form specified in (A) of this Local Rule, not later than fifteen days after the commencement of the chapter 13 case. The plan shall be filed in original and one copy and be accompanied by proof of service as required by paragraph (C)(3) of this Local Rule.

(2) ***Extension of Time to File Plan:***

(a) ***Motion to Extend Time for Filing Plan:*** No motion to extend time for the filing of a plan shall be considered unless the same is filed not later than fifteen days after the date of commencement of the chapter 13 case.

(b) ***Notice of Extension of Time to File Plan:*** If the debtor's motion to extend time to file a chapter 13 plan is granted, the debtor shall forthwith notify the trustee and all creditors of the new deadline set for filing the plan.

(3) ***Modification of Plan:*** Subject to review by the Court, a debtor may file a modified plan, with one copy, before or after confirmation.

(C) ***Distribution of Plan***

(1) ***Debtor to Distribute Plan:*** The debtor shall distribute a copy of the plan to all creditors, the standing trustee, and other interested parties.

(2) ***Distribution of Modified Plan:*** If, after having served the plan as required in paragraph (C)(1) of this Local Rule, the debtor files a modified plan, the debtor must serve such modified plan on:

(a) the standing trustee, and

(b) any creditor(s) affected by the modification.

(3) ***Proof of Service:*** The debtor shall serve the plan upon all required parties prior to filing the same with the Court. Any plan or modified plan filed with the Court shall include the debtor's proof of service evidencing compliance with this Local Rule.

(D) ***Objections to Confirmation***

(1) ***Deadline for Filing:*** Any objection to confirmation of a chapter 13 plan shall be filed not later than forty-five days after the filing of an original plan or thirty days after the filing of a modified plan.

(2) ***Service of Objection:*** The objecting party shall file the original objection to confirmation with the Court and serve copies on the standing trustee, the debtor, and the debtor's attorney. The objection shall be accompanied by proof of service evidencing compliance with this requirement.

(3) ***Settlement and Withdrawal of Objection:*** As soon as possible after the filing of an objection, counsel are directed to communicate in an effort to settle the objection well in advance of any scheduled hearing on objection to confirmation. If such a settlement is reached, the objecting

party shall forthwith file a withdrawal of objection and serve a copy on the standing trustee, the debtor and the debtor's attorney. If no other timely objection remains, the hearing on objection to confirmation will be stricken from the Court's calendar.

(E) *Confirmation of Plan*

(1) ***Without Hearing***: If the requirements of this Local Rule are met and no objection is timely filed, the chapter 13 plan will be confirmed without a hearing.

(2) ***Hearing on Objection to Confirmation***: If an objection to confirmation is timely filed, the objecting party is directed to obtain from the Court a hearing date on the same and to so notify the standing trustee, the debtor and the debtor's attorney.

(F) *Dismissal of Case for Failure to Timely File or Distribute Plan*

(1) ***Clerk to Issue***: The Clerk shall issue an order of dismissal in any chapter 13 case not meeting the timeliness of filing requirements of subdivisions (B) or (C) of this Local Rule.

(2) ***Notice of Possible Dismissal***: The Clerk shall give notice of this Local Rule to the debtor or debtor's counsel at the time the petition is filed. The Clerk shall also give notice of this Local Rule in the meeting of creditors notice.

(G) *Dismissal of Case Upon Denial of Confirmation*: If the Court denies confirmation of the debtor's plan, the Clerk is directed to issue an order dismissing the chapter 13 case unless, within ten days after denial of confirmation:

- (1) the debtor files a modified plan,
- (2) the debtor moves to convert the case to another chapter of the Bankruptcy Code,
- (3) the debtor files a motion for reconsideration or appeals the denial of confirmation, or
- (4) the Court otherwise orders.

RULE 3016-1 CHAPTER 11 PLAN

(A) *Transmission of Notice of Hearing on Disclosure Statement*: The proponent seeking approval of the disclosure statement shall transmit notice of the hearing on the disclosure statement and other materials as required by F.R.B.P. 2002(b) and 3017(a). The court-approved notices, other materials and proof of service shall be filed with the Court.

(B) ***Objections to Disclosure Statement:*** Objections to the disclosure statement shall be filed with the Court not later than five business days prior to the date set for hearing on the disclosure statement.

(C) ***Transmission and Notice to Creditors and Equity Security Holders:*** Upon approval of the disclosure statement, the proponent of the plan shall transmit to all required parties such notices and materials as required by F.R.B.P. 2002(b) and 3017(d) and shall file with the Court the court-approved notices, other materials transmitted and proof of service.

(D) ***Summary of Ballots:*** Any proponent of a plan in a reorganization case shall file a summary of ballots (acceptances and rejections) with the Clerk prior to the hearing on confirmation in the form approved by the Court. The ballots are not to be filed with the Clerk unless the Court so orders.

(E) ***Objection to Confirmation:*** Any objection to confirmation of the plan shall be filed with the Court not later than five business days prior to the date set for the hearing on confirmation. The objecting party shall serve a copy of the objection on the United States Trustee and the parties designated in F.R.B.P. 3020(b)(1).

RULE 3017-1(C) APPROVAL OF DISCLOSURE STATEMENT

(A) ***Conditional Approval:*** If the debtor is a small business and has made a timely election to be considered a small business in a chapter 11 case, the Court may, upon request of the plan proponent, conditionally approve the disclosure statement filed in accordance with F.R.B.P. 3016. A copy of the plan, disclosure statement and request for conditional approval of the disclosure statement shall be served on the Office of the United States Trustee. On or before conditional approval of the disclosure statement, the Court shall:

- (1) fix a time within which the holders of claims and interests may accept or reject the plan;
- (2) fix a time for filing objections to the disclosure statement;
- (3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and
- (4) fix a date for the hearing on confirmation.

(B) ***Application of F.R.B.P. 3017:*** If the disclosure statement is conditionally approved, F.R.B.P. 3017(a), (b), (c), and (e) and Local Rule 3016-1(A), (B) and (C) do not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of applying F.R.B.P. 3017(d).

(C) ***Objections and Hearing on Final Approval:*** Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with F.R.B.P. 2002 and may be combined

with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed, transmitted to the United States Trustee, and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code and any other entity designated by the Court at any time before final approval of the disclosure statement or by an earlier date as the Court may fix. If a timely objection to the disclosure statement is filed, the Court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

Comments

Changes effective 1/1/97

This rule is new and addresses the new provisions for small business chapter 11 cases.

RULE 3070-1 PAYMENTS IN CHAPTER 12 AND CHAPTER 13 CASES

(A) *Payments to Creditors by Trustee*: In chapter 12 and chapter 13 cases, no payment in an amount less than \$25 shall be distributed by the trustee to any creditor. Funds not distributed because of this Local Rule shall be paid whenever the accumulation totals at least \$25. Any funds remaining shall be distributed with the final payment.

(B) *Distribution of Estate Funds Upon Dismissal of Case Prior to Confirmation of Plan*:

(1) *Noticing Fees Payable to Clerk of Court*: The trustee shall pay all noticing fees due the Clerk out of estate funds before returning any funds to the debtor. If, pending dismissal, the funds on hand are not sufficient to pay all administrative expenses, the trustee shall pay to the Clerk the pro rata portion of the fees due.

(2) *Notice of Proposed Distribution*: The trustee may file a notice of proposed distribution of estate assets on hand, with copies to the debtor and debtor's counsel. The proposed distribution may include payment to the trustee for compensation as allowed by law and reimbursement of the trustee's out-of-pocket expenses incurred in the case. The notice shall state that if no objection to the proposed distribution is filed within ten days, the trustee is authorized to proceed with distribution.

(C) *Debtor's Failure to Commence Payments in Chapter 13 Case*: Each chapter 13 debtor shall commence payments proposed by the plan within thirty days after the plan is filed unless the Court has set some different time. If payments are not received as required, the trustee shall certify the same to the Clerk. Upon receipt of such a certification, the Clerk shall enter an order dismissing the debtor's case.

RULE 4001(a)-1 RELIEF FROM AUTOMATIC STAY

(A) ***Applicability of Contested Matter Rules:*** All motions for relief from stay, except those under paragraph (F) herein, are contested matters and are governed by F.R.B.P. 9014, 11 U.S.C. §362(d) and (e), and these Local Rules.

(B) ***Caption:*** The motion for relief from stay, and any pleading or other paper (excepting exhibits) filed pursuant to such a motion, shall include the same caption as an adversary proceeding, except that the caption shall include a contested matter (CM) number where the adversary proceeding (AP) number would otherwise appear.

(C) ***Response Period:*** Unless provided otherwise by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or order of the Court, the motion for relief from stay shall clearly state that the parties served shall have fifteen days from the date of service of the motion in which to file with the Court a written response, with a copy to the movant.

(D) ***Filing Requirements:*** With the original motion for relief from stay, the proponent shall also file:

- (1) the proper filing fee,
- (2) one copy of the motion,
- (3) a properly completed proof of service indicating that the movant served the motion for relief from stay upon each party required to receive notice under (E)(1) of this Local Rule,
- (4) a stamped, addressed envelope for each party, including the movant, to be served by the Clerk with the notice of hearing.

(E) ***Service***

(1) ***Of Motion:*** The movant shall serve a copy of the motion upon the debtor, and if applicable, upon:

- (a) the debtor's attorney,
- (b) the trustee,
- (c) any creditors' committee appointed in the case or its authorized representative,
- (d) if a chapter 11 case, any additional creditors if required by F.R.B.P. 4001(a)(1), and

(e) any other party as directed by the Court.

The movant shall file, with the motion, proof of service certifying proper service of the motion.

(2) ***Of Notice of Hearing:*** The Clerk shall, within five days after the date the motion was filed, assign a hearing date and serve notice of such hearing upon the parties indicated in the proof of service filed pursuant to paragraph (D)(3) of this Local Rule.

(F) ***Requests for Additional Relief:*** If a motion filed pursuant to F.R.B.P. 4001(a) requests relief beyond the termination, modification or conditioning of the automatic stay, and such additional relief is within the scope of F.R.B.P. 7001, it is deemed an adversary proceeding and it shall be accompanied by:

- (1) an adversary proceeding filing fee,
- (2) a properly completed Adversary Proceeding Cover Sheet

If a party seeks an expedited hearing under 11 U.S.C. §362(e), only the specific issue of the automatic stay shall be considered at such hearing, unless the Court otherwise directs.

(G) ***Relief from Debtor Stay in Chapter 13 Cases:*** Motions for relief from a stay of action against a debtor in a chapter 13 case are contested matters and are governed by F.R.B.P. 9014, 11 U.S.C. §1301 and these Local Rules. The motion shall clearly state in the caption of the motion the subsection of 11 U.S.C. §1301 under which the party is proceeding.

(1) ***Caption:*** The caption for a motion for relief from debtor stay, and any pleading or other paper (excepting exhibits) filed pursuant to such a motion, shall include the caption described in (B) herein.

(2) ***Service and Time for Response:*** Service shall be as set forth in paragraph (E)(1) of this Local Rule. The time for response is fifteen days from the date of service of the motion. The notice served upon the debtor in any relief action shall include notice of the response period. In addition, in a relief action under 11 U. S. C. §1301(c)(2) the notice shall include the following language: “If you do not file a written response by the deadline shown, the law provides that the stay protecting you from further legal action against you by this creditor will automatically terminate [see 11 U.S.C. §1301(d)].”

Comment

Changes effective 1/1/97

The subsection of 11 U.S.C. §1301 under which a party is proceeding must now be clearly stated in the caption of the the motion for relief of debtor stay.

RULE 4003-2 LIEN AVOIDANCE

All motions filed under F.R.B.P. 4003(d) are contested matters and are governed by 11 U.S.C. §522(f), F.R.B.P. 9014, and these Local Rules. If no response to a motion for lien avoidance is filed within fifteen days after service of the motion, relief may be granted without a hearing.

RULE 4008-1 REAFFIRMATION

(A) ***Notice of Rights Under 11 U.S.C. §524(d)***: The Clerk shall, within fifteen days after the discharge has been granted, give written notice to each discharged debtor of the debtor's rights under 11 U.S.C. §524(d).

(B) ***Reaffirmation Agreements***: Any individual debtor seeking to reaffirm a debt of the kind specified in 11 U.S.C. §524(c) shall file with the Clerk a summary of said reaffirmation agreement. The summary shall specify with particularity that the requirements of §524(c) have been met and shall be signed by the debtor, the debtor's attorney, if any, and the creditor. The Clerk shall, upon request, supply a form meeting the requirements of this provision.

(C) ***Court Consideration of Reaffirmation Agreement***: If the reaffirmation agreement is based on a consumer debt not secured by real property of the debtor, the reaffirming debtor or the creditor may, or if the debtor is not represented by an attorney, must request that a reaffirmation hearing be scheduled pursuant to 11 U.S.C. §524(d)(2).

RULE 5005-1 FILING OF PETITIONS, PLEADINGS AND OTHER PAPERS

(A) Filing in Proper Division

(1) ***Petitions***: A petition seeking relief under the Bankruptcy Code shall be filed in the division in which the debtor's domicile, residence, principal place of business or principal assets were located for the greater part of the one hundred-eighty days immediately preceding the filing of the petition. The debtor must file with the petition a properly completed Declaration of Divisional Venue form as required by Local Rule [1014-2](#).

(2) ***All Other Papers***: All motions, pleadings, complaints and other papers relating to a bankruptcy case or proceeding shall be filed in the divisional office of the court in which the bankruptcy case is pending.

(B) ***Proponent to be Member of Bar***: Any attorney offering a petition, pleading or other paper, other than a request for notices under F.R.B.P. 2002(g), for filing on behalf of a client must be a member in good standing of the Bar of this Court.

(C) ***Requirements of Form***: All petitions, pleadings and other papers offered for filing shall meet the following requirements of form:

(1) ***Legibility***: Papers shall be plainly and legibly typewritten, printed or reproduced on one side of the paper only.

(2) ***Caption, Official Forms***: The caption and form of all petitions, pleadings, schedules and other papers shall be in substantial compliance with the Federal Rules of Bankruptcy Procedure, Official Forms and Local Rules. Each paper or set of papers filed, except the petition, shall bear the debtor's name, the case number and chapter of the case to which it pertains.

(3) ***Size, Margins, etc.***: Papers, including attachments and exhibits, shall be of standard weight and letter size (8 1/2 by 11 inches), photo-reduced if necessary, with a top margin of not less than 1 1/2 inches. All multi-page pleadings and documents shall be fastened into sets at the top. All papers presented for filing at the same time shall be arranged in case number order.

(4) ***Signature Required***: All petitions, motions, pleadings and other papers shall be signed by counsel of record, or another attorney in the same firm, who shall have been admitted to practice before this Court. *Pro se* individuals shall sign on their own behalf. All papers submitted on behalf of corporations, other than proofs of claim, shall be signed by counsel.

(5) ***Identification of Attorney***: On the first page of each pleading or other paper filed with the court, the attorney filing the same shall be identified by name, State Bar number, complete mailing address, telephone number and the name of the party whom the attorney represents.

(6) ***Filing of Faxed Petitions, Pleadings and Other Papers***: Petitions, pleadings and other papers which have been transmitted by facsimile equipment may be filed with the court. Once filed, the faxed document constitutes the original and no other copy bearing an original signature should later be filed. All applicable filing requirements must be met, including the payment of any filing fee due and the providing of the required number of copies.

(D) **Additional Requirements:** The following requirements are in addition to those set out in (A) through (C) above:

(1) **Voluntary Petitions:** Each petition filed must include an unsworn declaration with the signature of all debtors and must be verified by the signature of the debtor's attorney, if any. More than one entity cannot be listed as the debtor, except that husband and wife may file a joint petition. Each petition filed must be accompanied by:

(a) either:

(i) the proper filing fee in a form other than personal check, or

(ii) an Application to Pay the Filing Fee in Installments accompanied by the proper first installment payment. The application must conform to the requirements of Local Rule [1006-1](#).

(b) payment in full of the past due amount, if the debtor still owes a filing fee or portion thereof for a previously filed petition.

(c) a properly completed and signed Declaration of Divisional Venue form, as required by Local Rule [1014-2](#).

(d) a List of Creditors, in the format specified by the Clerk's Office.

(e) a verification by signature of the attorney for the debtor and an unsworn declaration with the signature of all debtors.

(f) if the debtor is an individual, an acknowledged copy of the notice required by Local Rule [1002-2](#).

(g) if the debtor is a corporation, the petition must be signed by an attorney and be accompanied by a copy of the corporate resolution authorizing the filing as required by Local Rule [1074-1](#).

(h) if a chapter 11 petition, the List of Creditors Holding Twenty Largest Unsecured Claims, as required by Local Rule [1007-1\(H\)](#).

(2) **Complaints:** Each complaint commencing an adversary proceeding must be accompanied by:

(a) the proper filing fee, and

(b) a properly completed Adversary Proceeding Cover Sheet (Form B 104).

(3) ***Motions for Relief from Stay***: Each motion for relief from stay must be accompanied by:

- (a) the proper filing fee,
- (b) one additional copy of the motion,
- (c) proof of service indicating service of the motion upon the parties required to be served pursuant to Local Rule 4001(a)-1(E),
- (d) a stamped, addressed envelope for each party, including the movant, to receive the notice of hearing from the Clerk.

(4) ***Claims***: Each proof of claim presented for filing must specify the name of the debtor, the case number of the applicable bankruptcy case, and must be properly signed by the claimant or the claimant's authorized agent.

(5) ***Amendments***: Each amendment filed shall be accompanied by a properly completed Amendment Cover Sheet, as required by Local Rule 1009-1(B).

(6) ***Chapter 13 Plan***: As required by Local Rule 3015-2(A), each Chapter 13 Plan presented for filing shall be accompanied by a properly completed proof of service.

(7) ***Papers Filed Within Seventy-two Hours of Hearing***: If any paper is filed within seventy-two hours prior to a hearing or trial in which the paper is to be considered by the Court, the proponent shall include therewith a completed "Priority Handling Cover Sheet" stating the date and time of the trial (or hearing) and the name of the assigned Judge. The computation of the seventy-two hours shall not include weekends or national holidays. The Priority Handling Cover Sheet shall be yellow in color, and the Clerk shall provide sample copies of the form upon request.

(E) ***Notice of Deficient Filing***: The Clerk shall review each filing for compliance with the requirements of these Local Rules. Those pleadings or other papers not meeting the requirements of these Local Rules will receive a Notice of Deficient Filing allowing for ten days to correct the deficiency or to file a request for a hearing on the matter. Failure to cure the deficiency, or to request a hearing within the time allowed, will result in the pleading or other paper being stricken without further notice.

Comment

Changes effective 1/1/97

Paragraph (C)(4) is amended to clarify who may sign pleadings on behalf of counsel of record.

Paragraph (C)(6) is new. Although the court does not accept fax filings directly to its own fax

machines, it will, with the adoption of this local rule, accept for filing papers that originated from a fax machine. Since the faxed petition, pleading or other paper constitutes an original, no other “original” should later be filed. Papers intended for filing with the court could be sent to a fax machine at the court’s onsite copy service, some other copy or courier service, a law firm, or other third party. As before, the actual filing takes place when the paper is received by the Clerk’s Office.

Paragraph (D)(2) is amended to delete the previous requirement that parties submit a completed summons for each party. The Clerk’s Office will now prepare these.

RULE 5010-1 REOPENING CASES

A party seeking to reopen a case for purposes not related to the debtor’s discharge, shall file a motion with the Court and shall give twenty days notice to all parties in interest. The motion shall be served upon the United States Trustee, the previously appointed trustee, and any party being added, if any, as a creditor or party in interest in the case. The motion shall be accompanied by the appropriate fee to reopen the case, a notice containing the hearing date as obtained from the Court and proof of service. The motion shall also state that any objections to the reopening of the case must be filed at least five business days prior to the hearing.

Comments

Changes effective 1/1/97

The appropriate fee to reopen a case must be paid when the motion is filed.

RULE 5073-1 PHOTOGRAPHY, RECORDING DEVICES, AND BROADCASTING

(A) ***Photographs and Electronic Recordings***: Except with the express written permission of the Court, photography, electronic recording, videotaping and broadcasting are not permitted in the courtroom and its environs during the progress of or in connection with judicial proceedings, whether or not court is actually in session.

(B) ***Definition of “Environs”***: “Environs”, as used in this Local Rule, shall include any floor on which any courtroom or hearing room is located, including all hallways, stairways, windows, and elevators immediately adjacent to any such floor.

(C) **Exception:** With the written permission of the Court and of the party or parties to be photographed, pictures may be taken of any permanent occupant of any office within the environs aforesaid when court is not in session.

RULE 5077-1 TRANSCRIPTS

(A) **Certification of Record by Reporter:** The reporter or operator of a recording device shall certify the original notes of testimony, tape recording, or other original record of the proceeding and file them promptly with the Clerk within twenty-four hours of the hearing. Where requests for transcripts are made, the original notes, tape or record shall be filed within thirty days after the request, unless the Court orders otherwise.

(B) **Copies of Transcripts Available to Public:** The Clerk shall provide copies of any filed transcript to the public upon request and the payment of prescribed copy fees, unless the Court orders that copies of the transcript not be made or that the transcript be sealed.

(C) **Use of Transcripts by Multiple Parties:** Where there are multiple parties to a particular case, a party not ordering a copy of the transcript shall not be permitted to use (on appeal or otherwise) or examine, photocopy or reproduce a copy provided to another party having ordered and paid for same.

(D) **Perfecting Record on Appeal:** No photocopied or reproduced copy of a transcript may be used by a party not ordering said transcript for the purpose of perfecting a record on appeal, but nothing herein shall preclude the use of photocopied or reproduced copies of a transcript in any brief or memorandum filed with any Court.

(E) **Payment for Transcripts:** The obligation to pay the reporter for any and all transcripts shall be the joint and several personal obligation of the attorney and the party for whose benefit the transcript was obtained to the extent so ordered. Any charges for a transcript shall be payable upon the completion of the transcript or any segment thereof when a proper bill for same has been submitted by the reporter.

RULE 6004-1 SALE OF ESTATE PROPERTY

In any matter involving title to real property, all motions or complaints and any order relating thereto shall contain the legal description of said real property sufficient to effect a proper conveyance thereof.

Comments

Changes effective 1/1/97

Amended to require the legal description of real property.

RULE 6004-2 USE, SALE OR LEASE OF PROPERTY

(A) **Notice:** Notice of a proposed use, sale or lease of property other than in the ordinary course of business, shall be given by the proponent of the notice, and the original notice and proof of service shall be filed with the Court. The notice shall comply with F.R.B.P. 2002(a)(2) and 2002(c)(1).

(B) **Objection to Proposed Use, Sale or Lease:** An objection to a proposed use, sale or lease, other than in the ordinary course of business, shall be filed with the Court and served upon the proponent of the action not less than five business days before the date set for the proposed action. The party objecting shall obtain from the Court a hearing date on the objection and shall serve a notice of hearing. Proof of service shall be filed with the objection and notice.

(C) **Sale of Property When Value of Estate Does Not Exceed \$2,500:** The trustee or debtor in possession may give general notice of intent to sell property when all of the non-exempt property of the estate has an aggregate gross value of less than \$2,500. Such notice may be given at the meeting of creditors, and the Clerk is to provide notice in the meeting of creditors notice that this procedure may be followed. An objection to such sale must be filed by a party in interest and served upon the proponent of the sale not later than ten days after the meeting of creditors. The party objecting shall obtain from the Court a hearing date on the objection and shall serve a notice of hearing. Proof of service shall be filed with the objection and notice.

(D) **Report of Sale:** The trustee or debtor in possession shall file with the Court a report of any sale of estate property outside the ordinary course of business. The report shall be filed within thirty days after the sale with a copy to the United States Trustee.

RULE 6007-1 ABANDONMENT

(A) **Notice of Abandonment:** The Clerk shall give notice in the meeting of creditors notice that the trustee may, at the meeting of creditors, give notice of intention to abandon property of the estate that is burdensome or of inconsequential value to the estate. The Clerk shall give notice that parties in interest who object to such abandonment may state their oral objections at the meeting of creditors, obtain a hearing date from the Court, transmit notice of a hearing on their objection and file such notice with proof of service with the Court, within ten days after the meeting of creditors.

(B) **Order of Court Directing Abandonment:** Any party in interest requesting the Court to order the trustee to abandon any property of the estate shall obtain a hearing date from the Court, transmit copies of the motion and notice containing the hearing date to all parties in interest, and file with the Clerk the motion, notice and proof of service.

RULE 6008-1 REDEMPTION

A party seeking redemption of property from a lien or sale shall request from the Court a hearing date, transmit the motion and notice of hearing to all parties in interest, and file the motion, notice and proof of service with the Clerk.

RULE 7003-1 ADVERSARY PROCEEDING COVER SHEET

At the time of filing an adversary proceeding, counsel, or a *pro se* litigant, shall file with the complaint a properly completed A.O. Form B 104, Adversary Proceeding Cover Sheet. The Clerk is directed to provide such forms to the public upon request.

RULE 7004-2 SUMMONS

(A) ***Issuance***: The Clerk shall issue to the plaintiff for service a summons for each party as listed on the adversary cover sheet.

(B) ***Time Limit for Service***: If a summons is not timely delivered or mailed within ten days following issuance of the summons, the party responsible for the original service shall bear the responsibility for issuance of further process.

Comments

Changes effective 1/1/97

Paragraph (A) is amended to delete the previous requirement that parties submit a completed summons for each party. The Clerk's Office will now prepare these.

RULE 7013-1 COUNTERCLAIMS

A filing fee in the same amount as for a complaint is due upon the filing of a counterclaim. The filing fee may be waived by the Court upon the submission of a memorandum of points and authorities in support of non-payment of the filing fee.

RULE 7016-1 PRETRIAL PROCEDURES

(A) ***In Default Cases***: Where the defendant is in default and there has been no appearance on the defendant's behalf, the procedure outlined herein shall not be applicable, but the Court may direct the party not in default to appear for the purpose of noting a default, the entry of a default judgment, and for scheduling a date for trial on the issue of damages if required by law. If the party not in default fails to take action to prosecute its claim after reasonable notice to appear or take such action, the Court may dismiss the proceeding for failure to prosecute.

(B) ***In All Other Cases***: In all other adversary proceedings, as promptly as possible after suit has been filed, the Court may schedule an initial pretrial conference at which trial counsel shall be present. At such pretrial conference, the Court may issue an order fixing dates for:

- (1) the amendment of pleadings and joinder of additional parties,
- (2) the completion of discovery,
- (3) the filing and hearing of motions, and
- (4) a final pretrial conference and/or trial.

(C) ***Optional Items in Scheduling Order***: The Court may include in such order, or any supplemental order, such other provisions as are appropriate to assist in expediting the trial or other disposition of the case, and may specify the requirements of any final pretrial conference order which shall be presented to the Judge for entry at the time of the final pretrial conference. While the primary obligation of preparing the final pretrial conference order rests upon counsel for plaintiff, all counsel are requested to meet at least seven days in advance of the conference with the Court in order to discuss and prepare such order, and the Court may require such meeting of counsel by its order.

(D) ***Continuance of Dates Set in Scheduling Order***: The parties and their counsel are bound by the dates specified in said order and no extensions or continuances thereof shall be granted in the absence of a showing of good cause. Mere failure on the part of counsel to proceed promptly with the normal processes of discovery shall not constitute good cause for an extension or continuance.

RULE 7026-1- DISCOVERY

(A) ***Limits on Interrogatories***: Unless otherwise permitted by the Court for good cause shown, such permission being granted only upon written motion to the Court pursuant to Local Rule [9013-1](#), no party shall serve upon any other party, at any one time or cumulatively, more than thirty written interrogatories, including all parts and sub-parts. This limit may not be waived by agreement of counsel.

(B) ***Limits on Depositions***: Unless otherwise permitted by the Court for good cause shown, such permission being granted only upon written motion to the Court pursuant to Local Rule [9013-1](#), no party shall take more than five depositions, whether upon oral examination pursuant to Rule 30, F.R.C.P., or upon written questions pursuant to Rule 31, F.R.C.P., upon non-parties. Any party may be deposed. This limit may not be waived by agreement of counsel.

(C) ***Objections to be in Writing***: All objections to interrogatories, depositions, requests, or applications under Rules 26 through 37, F.R.C.P., as well as all motions and replies thereto concerning discovery matters, shall be in writing. If time does not permit the filing of a written motion, the Court may waive this requirement.

(D) ***Objections to Discovery Process***: An objection to any interrogatory, deposition, request, or application under Rules 26 through 37, F.R.C.P., shall be filed within fifteen days after service of the interrogatory, deposition, request or application, unless otherwise ordered by the Court. Any such objection shall be specific and the reasons for the objection shall be stated. Any such objection shall not extend the time within which the objecting party must otherwise answer or respond to any discovery matter not specifically objected to.

(E) ***Motions to Compel***: After a discovery request is objected to or not timely complied with, and if not otherwise resolved, it is the responsibility of the party initiating discovery to place the matter before the Court by a proper motion pursuant to Rule 37, F.R.C.P., to compel an answer, production, designation or inspection. Such motion must be accompanied by a memorandum as required by Local Rule [9013-1\(G\)](#).

(F) ***Other Discovery Motions***: A motion for a protective order pursuant to Rule 26(c) or Rule 37(a)(2), F.R.C.P., or a motion to compel physical or mental examination pursuant to Rule 35, F.R.C.P., shall be accompanied by a memorandum as required by Local Rule [9013-1\(G\)](#).

(G) ***Replies to Discovery Motions***: Replies to discovery motions mentioned in subdivisions (E), (F) and (I) herein shall be filed within ten days after service of the motion and memorandum unless otherwise ordered by the Court. Responses, if any, to all other discovery motions also shall be filed within ten days.

(H) ***Compliance with Discovery Orders***: After the Court has ruled on a discovery motion, any answer, production, designation, inspection or examination required by the Court shall be completed within ten days after the entry of the order of the Court, unless otherwise ordered by the Court.

(I) ***Failure to Comply with Order***: Should a party fail to comply with an order of the Court concerning discovery motions, it is the responsibility of the party objecting to such failure to comply to place the matter before the Court by a proper motion for supplementary relief pursuant to Rule 37, F.R.C.P. Such motion must be accompanied by a written memorandum as required by Local Rule [9013-1\(G\)](#).

(J) ***Consultation Among Counsel***: Counsel are encouraged to participate in pretrial discovery conferences in order to decrease, in every way possible, the filing of unnecessary discovery motions. No motion concerning discovery matters may be filed until counsel shall have explored with opposing counsel the possibility of resolving the discovery matters in controversy. The Court will not consider any motion concerning discovery matters unless the motion is

accompanied by a statement of counsel that a good-faith effort has been made between counsel to resolve the discovery matters at issue.

(K) ***Extensions***: Depending upon the facts of the particular case, the Court in its discretion may, upon appropriate written motion by a party, allow an extension of time in excess of the time provided by the Federal Rules of Civil Procedure, these Local Rules, or previous court order, within which to respond to or complete discovery or to reply to discovery motions. Any agreement between counsel relating to any extension of time is of no force or effect; only the Court, after appropriate motion directed thereto, may grant an extension of time. Unless otherwise specifically provided, such extension will be upon the specific condition that, regardless of what may be divulged by such discovery, it will not in any manner alter the schedule of dates and procedure previously adopted by the Court in the particular case.

(L) ***Unnecessary Discovery Motions or Objections***: The presentation to the Court of unnecessary discovery motions, and the presentation to another party or non-party of unnecessary discovery requests of any kind, as well as any unwarranted opposition to proper discovery proceedings, will subject such party to appropriate remedies and sanctions, including the imposition of costs and attorney's fees.

(M) ***Sanctions***: Should any party or the party's attorney fail to comply with any of the provisions of this Local Rule, or otherwise fail or refuse to meet and confer in good faith in an effort to narrow the areas of disagreement concerning discovery, sanctions provided by Rule 37, F.R.C.P., may be imposed.

(N) ***Opt-Out Provisions***: In the interest of judicial economy, this Court has opted out of certain provisions of F.R.C.P. 26, 30, 31, 32, 33, 34, and 36 as follows:

- (1) The provisions of F.R.C.P. 30(a)(2)(C) (oral depositions), 31(a)(2)(C) (depositions by written questions), 33(a) (written interrogatories), 34(b) (requests for production and entry) and 36(a) (requests for admission) that a party may not serve such discovery before the time specified in F.R.C.P. 26(d) will not apply in this District.
- (2) The provisions of F.R.C.P. 26(a)(1) (that a party shall provide certain initial disclosure without awaiting a discovery request), 26(d) (that a party may not seek discovery from any source before the parties have met and conferred as required by F.R.C.P. 26(f)), 26(f) (that the parties meet and plan for discovery prior to a scheduling conference), 30(a)(2)(A) (that a party must obtain leave of court to take more than ten depositions), 32(a)(3) (that a deposition taken without leave of court pursuant to a notice under Rule 30(a)(2)(C) shall not be used against a party who demonstrates that, when served with the notice, it was unable through the exercise of diligence to obtain counsel to represent it at the taking of the deposition), and 33(a) (that limits the number of written interrogatories to twenty-five in number including all discrete subparts), will not apply in this District.

(O) ***Expert Disclosure:***

(1) ***Agreement upon Disclosure:*** Counsel are encouraged to agree upon the sequence and timing of the expert disclosures required by F.R.C.P. 26(a)(2) and F.R.B.P. 7026. All such agreements must be in the form of a consent order entered by the Court.

(2) ***Timing of Mandatory Disclosure:*** Absent such a consent order, or unless otherwise ordered, the disclosures required by F.R.C.P. 26(a)(2) shall be made as follows:

(a) ***Adversary Proceedings:*** In adversary proceedings, the disclosures required by F.R.C.P. 26(a)(2) shall be first made by the plaintiff not later than sixty days before the date set for completion of discovery; then by the defendant thirty days before the date set for completion of discovery. Plaintiff shall disclose fifteen days after defendant's disclosure any evidence that is solely contradictory or rebuttal evidence to the defendant's disclosure.

(b) ***Contested Matters Except Relief from Stay:*** In contested matters, the disclosures required by F.R.C.P. 26(a)(2) shall be made by the movant or applicant, as the case may be, within thirty days prior to the hearing date; then by the respondent or objecting party, within ten days after the movant or applicant presents their disclosures.

(c) ***Relief from Stay:*** In relief from stay matters, the disclosures required by F.R.C.P. 26(a)(2) shall be made by the parties within fifteen days prior to the date set for final hearing on the motion. The parties shall disclose seven days after disclosure any evidence that is solely contradictory or rebuttal evidence to each other's disclosure.

(3) ***Failure to Comply:*** Any party who fails to comply with these mandatory disclosure requirements may, at the court's discretion, be prohibited from using the undisclosed expert testimony at trial.

(4) ***General Provisions:*** For purposes of this Local Rule, counterclaim-plaintiffs, cross-plaintiffs, and third-party plaintiffs shall be plaintiffs as to all elements of the counterclaim, cross-claim or third-party claim. Answers to interrogatories directed at clarification of the written reports of expert witnesses disclosed pursuant to F.R.C.P. 26(a)(2) shall be due fifteen days after service, unless otherwise ordered.

(P) ***Filing With Court:*** Unless otherwise permitted by the Court, on its own initiative or for good cause shown by motion, discovery materials, depositions upon oral examination and upon written questions, interrogatories, requests for documents, requests for admission, and answers and responses or objections to such discovery requests shall not be filed with the pleadings or papers in any case

or proceeding. Where specific discovery material may appropriately support or oppose a motion, the specific discovery material in question shall be appended as an exhibit to the motion, or in response thereto, without having been previously filed. Discovery material otherwise permitted to be used at trial may be properly so used, if otherwise admissible, without having been previously filed.

Comments

Changes effective 1/1/97

Paragraph (O) is new and incorporates herein the same rule as in the U.S. District Court for the Eastern District of Virginia.

RULE 7027-1 DEPOSITIONS

(A) ***Deposition of Party***: Any party or representative (officer, director or managing agent) of a party filing an adversary proceeding in the proper division of this Court may ordinarily be required to submit to a discovery deposition at a place designated within the division. Exceptions to this general rule may be made on order of the Court when the party, or representative of a party, is of such age or physical condition, or special circumstances exist, as may reasonably interfere with the orderly taking of a deposition at a place within the division. A defendant, who becomes a counter-claimant, cross-claimant or third-party plaintiff, shall be considered as having filed an action in this Court for the purpose of this Local Rule. This subdivision shall not apply to an involuntary plaintiff or an interpleader plaintiff.

(B) ***Recording and Transcribing of Discovery Deposition***: The expense of recording a deposition shall be paid by the party seeking to take same. The expense of transcribing the deposition shall be paid by any party ordering the preparation of the original. Any other party desiring a copy of said deposition shall pay for same at the copy rate. Parties may, by agreement, equally share the costs of attendance and transcribing, including such copies as desired. The costs of the original transcript shall be included in the taxable costs, but only if the prevailing party has made use of the deposition during the trial, unless the parties otherwise agree.

(C) ***Attorneys' Fees***: Unless the services of associate counsel are retained in lieu of travel expense, it is not the policy of the Court to make an allowance of counsel fees in attending any deposition, except to the extent provided by statute and otherwise in this Local Rule, but the Court reserves the right to make a reasonable allowance where the circumstances of the case may justify the same.

(D) ***Travel Expense***: The “costs of travel” as provided in this Local Rule shall consist of the actual cost of travel by air or other public transportation, or an allowance for travel by private automobile at mileage rates as set forth in 28 U.S.C. §1821, whichever means of transportation is actually used, including the cost of transportation from the office or residence to the terminal of the public transportation and from the destination terminal to the place of the taking of the deposition and/or overnight accommodations, if deemed necessary, and return. The Court may, in its discretion, make an appropriate allowance for food and lodging.

The “costs of travel” as herein defined shall apply to any witness other than a party, or representative of a party, required to attend the taking of a deposition. As to any witness attending a trial or hearing pursuant to Rule 45(e), F.R.C.P., the expense of such costs of travel shall be taxed as costs if said witness testifies or if it is reasonably necessary for the witness to appear, but said costs of travel shall be limited to what would have been expended if said witness resided one-hundred miles or more from the place of the trial or hearing, together with such reasonable allowance, if required for the purpose of the witness testifying, for overnight accommodations and food. If the witness resides within one-hundred miles of the place of trial or hearing, the costs of travel shall be limited to the mileage and attendance fees as provided by law.

(E) ***Reviewing Depositions Prior to Jury Trials***: Whenever depositions are expected to be presented in evidence, counsel shall, prior to the final pretrial conference or, if same are not then available, prior to the day of jury trial, review such depositions and:

- (1) extract therefrom a short statement of the qualifications of any expert witness to be read to the jury,
- (2) eliminate unnecessary and/or irrelevant matters, and
- (3) eliminate all objections and statements of counsel to avoid reading same to a jury.

In the event counsel are unable to agree on what shall be eliminated, they shall submit same to the Court for a ruling thereon before the date of trial. Failure to do so will constitute a waiver of objections.

(F) ***Summaries of Depositions***: In all cases or proceedings set for bench trial, counsel shall attach to any deposition a summary of the examination of the testimony of each witness, identifying the salient points to be noted by the Court.

(G) ***Reasonable Notice***: As a general rule, seven business days in advance of the contemplated taking of a deposition shall constitute reasonable notice of the taking of a deposition in the continental United States, but this will vary according to the complexity of the contemplated testimony and the urgency of taking the deposition of a party or witness at a particular time and place.

RULE 7054-1 COSTS

(A) ***Taxation Generally:*** Costs shall be taxed as provided by law in all actions in this Court and, if not otherwise provided by law, in accordance with these Local Rules.

(B) ***Payment in Advance:*** All fees and costs due the Clerk in adversary proceedings shall be paid in advance except:

- (1) in actions brought on behalf of seamen,
- (2) where a party has been authorized to proceed *in forma pauperis*, or
- (3) where a party is otherwise exempt by law, such as the debtor (other than a debtor in possession) in a chapter 7, 11, 12 or 13 case, the United States, or in a proceeding where the United States Trustee, acting as trustee, or a trustee in a case under title 11 is the plaintiff, the filing fee shall be payable only from the estate and to the extent there are funds in the estate.

(C) ***RESERVED***

(D) ***Bonds and Security for Costs:*** No bond or security for costs shall be required of parties instituting adversary proceedings, unless otherwise ordered by the Court.

(E) ***Clerk to Tax:*** The Clerk may tax costs in an adversary proceeding as provided by F.R.B.P. 7054(b).

RULE 7067-1 DEPOSIT IN COURT

(A) ***Order Required:*** The Clerk shall deposit into the registry of the Court any sum so directed by order.

(B) ***Form of Order:*** In addition to an appropriate caption and attorney identification, a proposed Order Directing Deposit shall include the following elements:

- (1) the name, address and telephone number of the person or other entity paying the money into the registry of the Court,
- (2) the name, address and social security number or employer tax number of the person or other entity for whom the money is being held,
- (3) the sum of money and date to be paid into the Court,
- (4) provision for the payment, when funds are disbursed, of a fee of ten percent of all interest earned by the funds while in the Court's control, and

(5) the desired depository and specific investment instrument with the rate of interest expected to be earned thereon. If no specific deposit or investment type is specified, the Clerk will deposit the funds in an interest-bearing savings account.

(C) **Sample Order:** The Clerk's Office shall make available upon request a sample order satisfying the requirements of this Local Rule.

RULE 8005-1 APPEAL BOND

(A) **Exemption From Appeal Bond:** The Commonwealth of Virginia, or any political subdivision or any office or agent thereof, shall not be required, unless otherwise ordered by the Court, to post a supersedeas bond or other undertaking which includes security for the payment of costs on appeal.

(B) **Failure to Post Appeal Bond:** In any case in which a monetary judgment is entered, and in such other cases as the Court may order, any party desiring to appeal from the adverse effect of such judgment shall be required, unless otherwise ordered by the Court, to post a supersedeas bond with sufficient security to respond to the judgment of the Court in the event of affirmance on appeal. In the event of failure to give such bond with security, the prevailing party may enforce such judgment as provided by law without regard to the pendency of said appeal.

(C) **Stipulation of Parties:** In lieu of any supersedeas bond, the parties may stipulate with respect to any agreement or undertaking. In lieu of any cost bond, the parties may stipulate with respect to any agreement or undertaking conditioned that the moneys and properties of the Court are fully protected or prepaid.

RULE 8006-1 RECORD ON APPEAL

(A) **Record on Appeal- Exclusions:** Unless otherwise directed by the Court, the record on appeal in any matter shall not include counsel's opening statements or arguments of counsel, including arguments of counsel on motions.

(B) **Designating Record on Appeal:** Unless the parties file a timely written designation of record with the Clerk pursuant to F.R.B.P. 8006 designating the papers which shall constitute the record on appeal, the Clerk shall forward to the proper appellate court a certification that no designation of record was filed.

(C) ***Copies of Record***: The party filing a designation of items to be included in the record on appeal shall file with the designation either:

- (1) a complete and correct copy of all items designated, or
- (2) a copy request form with check payable to the Court's authorized copy service. Copy request forms are available from the Clerk's Office upon request.

RULE 9013-1 MOTIONS PRACTICE

(A) ***Definition of Motion***: For the purposes of this Local Rule, "motion" shall include any motion, application, other request for relief from the Court, or proposed action to be taken under the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, or Local Rules but shall not include:

- (1) any petition commencing a case under the Bankruptcy Code,
- (2) any complaint commencing an adversary proceeding under the Federal Rules of Bankruptcy Procedure,
- (3) any motion for relief from the automatic stay, or
- (4) any proposed order.

(B) ***Requirement of Written Motion***: In all cases or proceedings, all motions shall be in writing unless made during a hearing or trial. If time does not permit the filing of a written motion, the Court may, in its discretion, waive this requirement.

(C) ***Grounds for, relief sought, and whether a hearing has been requested to be stated***: All motions, responses, objections, applications (other than for compensation) and similar requests shall state with particularity the grounds therefor and shall set forth the relief or order sought. If a hearing on the motion has been set or requested by the movant, the motion shall so state.

(D) ***Number of Copies***: Each original motion, objection, application, or similar request filed with the Court shall be accompanied by a complete copy thereof.

(E) ***Use of Forms***: Forms, including motions and interrogatories, may be used only if all inapplicable references have been deleted and the proponent so certifies.

(F) ***Return Date, Conference of Counsel***: Except as otherwise provided by an order of the Court or by the rules, all motions shall be made returnable to the time obtained from and scheduled by the Court for a hearing thereon. Before requesting a hearing date on any motion, the proponent shall confer with opposing counsel, in person or by telephone, in a good-faith effort to narrow the area of disagreement.

(G) ***Memorandum of Points and Authorities:***

(1) All motions shall be accompanied by a written memorandum setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the movant relies, unless otherwise directed by the Court and except as noted below. The memorandum and the motion or response thereto, may be combined in a single pleading.

(2) A memorandum need not accompany a motion or response thereto:

- (a) for a more definite statement,
- (b) for an extension of time to respond to pleadings, unless the time has already expired,
- (c) for a default judgment,
- (d) solely related to discovery matters, except as set forth in Local Rule [7026-1\(E\)](#), (F), and (I),
- (e) for a continuance,
- (f) for a voluntary dismissal or conversion under chapters 7, 11, 12 or 13 of Title 11, United States Code, or
- (g) that is stipulated to by all parties in interest.
- (h) to avoid a lien pursuant to §522(f)
- (i) an objection to a claim.

(H) ***Responses to Motions***

(1) ***Requirement of written response:*** Except as otherwise provided by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these Local Rules, or by order of the Court, responses in opposition to motions must be in writing, state with particularity the grounds therefor, be filed with the Court and served upon all parties affected thereby and the United States Trustee.

(2) ***Requirement of memorandum:*** Unless otherwise directed by the Court, except as herein above noted, the party filing a response in opposition to a motion shall file therewith a memorandum of points and authorities setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the party relies. The memorandum and the motion or response thereto, may be combined in a single pleading.

(3) ***Time for filing response and memorandum:***

(a) ***Where no hearing has been set or requested***, the opposing party may file a response, with a supporting memorandum, within ten days but not thereafter without leave of the Court unless the motion relates to a matter for which a twenty day notice is required under F.R.B.P. 2002(a), in which event a response may be filed within twenty days. The movant may file a rebuttal memorandum within three business days after the filing of the opposing party memorandum. For good cause, the responding party may be given additional time or may be required to file a response, memorandum, and supporting documents within such shorter period of time as the Court may specify.

(b) ***Where hearing has been set on at least twenty days notice***, the opposing party may file a response, with a supporting memorandum, not later than five business days before the date of the hearing.

(c) ***Where hearing has been set on less than twenty days notice***, the opposing party may file a response, with a supporting memorandum, not later than two business days before the date of the hearing.

(d) ***When objection to a claim is filed***, the opposing party may file a response, with supporting memorandum, within thirty days of the filing of the objection. If no response is filed, the Court may enter an order without a hearing.

(4) ***Effect of not timely filing an objection with a supporting memorandum:*** If a response with a supporting memorandum is not timely filed and served, the Court may deem the opposition waived, treat the motion, application, pleading, or proposed action as conceded, and enter an appropriate order granting the requested relief. If no objection with supporting memorandum is timely filed, the movant shall, within ten days thereafter, file and serve a proposed order which satisfies the requirements of Local Rule 9022-1.

(I) ***Summary Judgment - Time of Filing:*** A party desiring to file a motion for summary judgment must act with reasonable dispatch. No motion for summary judgment will be considered unless filed within a reasonable time prior to the date of trial, thus permitting time for the Court to hear arguments and consider the merits after completion of the schedule specified in this Local Rule.

(J) ***Continuances:*** A motion for continuance of a trial date shall not be granted by mere agreement of counsel. Any such motion will be considered by the Court only in the presence of all counsel, and no continuance will be granted other than for good cause and upon such terms as the Court may impose.

(K) ***Extensions***: Any request for an extension of time relating to motions must be in writing and, in general, will be looked upon with disfavor.

(L) ***Determination of Motions Without Oral Hearing***: In accordance with Rule 78, F.R.C.P., the Court may rule upon motions without an oral hearing, unless otherwise required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these Local Rules.

(M) ***Giving Notice of Motion or Hearing***:

(1) ***Where no hearing is requested or required***: The notice of any motion where no hearing is required or requested (i.e., a notice of opportunity for a hearing, where a hearing is set only if a response is filed objecting to the requested relief or requesting a hearing), shall contain a notice setting forth the requirement of a response under subparagraph (H)(3)(a) in substantially the following form:

NOTICE

Under Local Rule 9013-1, unless a written response to this motion and supporting memorandum are filed with the Clerk of Court and served on the moving party within ten [*or twenty*] days of the service of this notice objecting to the relief requested, the Court may deem any opposition waived, treat the motion [*or application or proposed action*] as conceded, and issue an order granting the requested relief without further notice or hearing.

(2) ***Where a hearing is required or requested***: Any notice of hearing shall contain a notice setting forth the requirement of a response under subparagraph (H)(3)(b) or (H)(3)(c) of this Rule in substantially the following form:

NOTICE

Under Local Rule 9013-1, unless a written response to this motion and supporting memorandum are filed with the Clerk of Court and served on the moving party within five [*or two*] business days before the scheduled hearing date, the Court may deem any opposition waived, treat the motion [*or application or proposed action*] as conceded, and issue an order granting the requested relief without further notice or hearing.

(N) ***Request for Expedited Hearing***: A motion requesting an expedited hearing shall be accompanied by a Priority Handling Cover Sheet and a certification verifying that the proponent:

(1) has carefully examined the matter and concluded that there is a true need for an emergency hearing,

(2) has not created the emergency through any lack of due diligence, and

(3) has made a *bona fide* effort to resolve the matter without hearing.

(O) ***Cancellation of Scheduled Hearings***: It is the responsibility of counsel for the plaintiff/movant to advise the Court of any settlement or any other valid reason that a Court scheduled pretrial conference, hearing or trial need not be conducted. Counsel are advised to provide the Court with such notification as far in advance of any such conference, hearing or trial as is practical under the circumstances. Failure of such counsel to properly and timely notify the Court may result in the imposition of sanctions.

Comment

Changes effective 1/1/97

New paragraph (H)(3)(d) sets the time period for filing a response to the filing of an objection to a claim. Paragraph (M) is rewritten to include the language for the notice of opportunity to respond. Paragraph (N) is amended to emphasize the need for a Priority Handling Cover Sheet for requests for expedited hearing. Paragraph (O) is new and includes rules for cancelling scheduled hearings.

RULE 9016-1 SUBPOENAS

(A) ***Request for Subpoena***: Requests for subpoenas shall be in writing and, except as provided in subdivision (G) with respect to a subpoena for a deposition to be taken in a proceeding pending in another jurisdiction, signed by counsel qualified to practice in this Court and noted of record in the action in which the subpoenas are to issue. Attorneys admitted to practice in this Court may also issue and sign a subpoena on behalf of:

- (1) a court in which the attorney is authorized to practice; or
- (2) a court for a district in which a deposition or production is compelled by the subpoena, if the deposition or production pertains to an action pending in a court in which the attorney is authorized to practice.

Individuals appearing *pro se* may apply for subpoenas in their own behalf.

Each request for subpoena shall:

- (1) be accompanied by a subpoena which has been completed except for issuance by the Clerk, and
- (2) unless the party is exempt therefrom, be accompanied by a check made payable to the witness for at least one day's attendance plus mileage at the rate allowed by law.

(B) ***Return Date of Subpoenas***: All subpoenas shall be made returnable to the place, date and time of trial or hearing unless otherwise ordered by the Court.

(C) ***Service of Subpoenas***: Unless the party requesting same is:

- (1) authorized to proceed *in forma pauperis* pursuant to 28 U.S.C. §1915, or is a seaman authorized to proceed under 28 U.S.C. §1916,
- (2) the United States or an officer or agency of the United States, or
- (3) otherwise ordered by the Court,

all subpoenas shall be served by a person who is not a party or otherwise interested in the proceeding and is not less than eighteen years of age. Proof of service by such person shall be made as provided for proof of service for summons and complaint in F.R.B.P. 7004(a). The person serving the subpoena shall make proof of service thereof to the Court promptly and in any event within the time during which the person served must respond to the subpoena. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to the party summoned the fee for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered. Mileage shall be computed and tendered even though the witness to be subpoenaed lives within the city limits. The Marshal, deputy marshal, or any other person serving subpoenas shall do so only in strict compliance with this Local Rule, except that a party authorized to proceed *in forma pauperis* need not tender witness and mileage fees.

(D) ***Subpoenas to Officials***: Without permission of the Court first obtained, no subpoena shall be issued for the attendance at any hearing, trial or deposition of (1) the Governor, Lieutenant Governor, or Attorney General of any State; (2) the Judge of any court; (3) the President or Vice President of the United States; (4) any member of the President's Cabinet; (5) any Ambassador or Consul; (6) any member of the United States Congress; or (7) any military officer holding the rank of Admiral or General.

(E) ***Subpoena Duces Tecum***: Whenever a subpoena *duces tecum* has been directed to any person to produce any books, papers, documents or tangible things to any court and to attend and give testimony at the time scheduled for the trial, taking of depositions or other hearing, the person requested therein to produce, or whenever all parties agree, an alternate, shall produce such items to the Clerk on or before 9:00 a.m. on the day designated, or prior thereto if ordered by the Court, to enable counsel to review the same prior to commencement of the trial or the hearing. Provided, however, if a party has good reason not to produce and surrender custody of same to the Clerk, that party shall so advise the Court in writing promptly upon receipt of the subpoena to enable the Court to rule on the objection. Counsel are required to promptly inspect said items so as to enable the trial to proceed promptly.

The provisions hereof are not intended in any way to change or modify the provisions of F.R.B.P. 7026 or 9016 or any other applicable Federal Rule of Bankruptcy Procedure or Federal Rule of Civil Procedure, but to supplement the provisions of F.R.B.P. 9016.

(F) ***Timely Requests for Subpoenas***: All requests for the issuance of subpoenas for the attendance of witnesses at hearings or trials shall be filed with the Clerk not later than fourteen days before the date upon which the witness will be directed to appear. If the request is made within fourteen days prior to the date of the trial or hearing, it may be issued by the Clerk but no continuance will be granted if said witness fails to appear even though served.

(G) ***Deposition Subpoenas***: Proof of service of a notice to take depositions as provided in Rules 30(a) and 31(a), F.R.C.P., constitutes sufficient authorization for the issuance of a subpoena by the Clerk for the district in which the deposition is to be taken for the attendance of persons named or described therein. The subpoena may command the person to whom it is directed to produce designated books, papers, documents or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by Rule 26(b), F.R.C.P., but in that event the subpoena will be subject to the provisions of subdivision (b) of Rule 30 and subdivision (b) of Rule 45, F.R.C.P. No subpoena for the taking of depositions shall be issued by the Clerk unless there be exhibited to the Clerk a copy of the notice to take deposition together with a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. Rule 45(d)(1), F.R.C.P.

(H) ***Place of Taking Depositions***: The Clerk shall issue a subpoena upon request, or an attorney may issue a subpoena in accordance with subdivision (A) of this Rule for F.R.B.P. 2004 examinations or for taking a deposition requiring the appearance of any party or witness in any city or county within the division of the district wherein the party or witness resides or is employed or transacts business, or in any city contiguous to any such county or city, without prior order of the Court; provided, however, that no such subpoena shall direct any party or witness who may reside in either Accomack or Northampton Counties to appear in any other city or county, nor may any party or witness residing in any other county or city be required to appear in Accomack or Northampton Counties, unless said party or witness is employed or transacts business in the city or county wherein the deposition is to be taken, or unless otherwise ordered by the Court. Contiguous cities or counties shall be considered as such even though separated by water but only when located within the particular division of the district. The right is reserved to any party or witness directed to attend a deposition in any contiguous city to insist that said deposition be taken within the city (or county) provided by the Federal Rules of Civil Procedure upon a showing of inconvenience of travel, or infirmities of body, or age.

(I) ***Subpoenas in Blank***: Whenever there is a question as to whether or not a subpoena in blank should be issued by the Clerk, the request shall be referred to a Judge of this Court for a final determination. Before the Clerk may issue a subpoena in blank, the Clerk shall determine the actual pendency of the action and the date and time set for hearing or trial. Except for good cause shown, a subpoena returnable in one division will not be issued out of another division. Blank subpoenas shall recite the title and number of the case and shall be complete in every detail except the name and address of the witness. Returns of service shall be made promptly and filed with the Clerk. All service shall be made strictly in accordance with these Local Rules.

RULE 9017-1 EVIDENCE

(A) ***Presence of Witnesses***: Any counsel desiring to ascertain the presence of witnesses summoned for any particular case shall, before the opening of Court, furnish the Clerk with a list of the names of such witnesses.

(B) ***Qualifications of Experts***: Unless the qualifications of an expert witness, including any party litigant, are admitted, a duplicate written statement of such qualifications will be submitted on the morning of trial. As to experts who are expected to appear frequently, a statement of their qualifications may be filed with the Clerk in each of the divisions of the Court for use at trial. When so filed, the Clerk will maintain the statement in a file kept for that purpose. Counsel desiring to make use of the statement will be responsible for obtaining the same from the Clerk's Office.

(C) ***Hypothetical Questions***: Any and all hypothetical questions to be propounded to any witness will be submitted in writing on the morning of trial or at such earlier time as the Court may direct.

(D) ***Physical Examination of Litigant***: No doctor or other expert will be permitted to testify as to the nature and extent of the injuries to any litigant unless said expert has previously examined or interviewed such person, or unless such testimony is to be based on hypothetical questions. This Local Rule is not intended to limit an expert, having previously examined the party, from properly demonstrating any of the injuries of a party.

RULE 9022-1 COURT ORDERS

(A) ***Identification of Attorney Filing Proposed Order***: On the first page of each proposed order filed with the Court, the attorney filing the same shall be identified by name, State Bar number, complete mailing address, telephone number and the name of the party whom the attorney represents.

(B) **List, Copies and Envelopes:** With each proposed order, the proponent shall file a list of parties, with mailing addresses indicated, who are to receive notice of entry of the same. For each party appearing on the list, the proponent shall also file:

- (1) one copy of the proposed order, and
- (2) for other than the United States Trustee, or standing chapter 13 trustee, a stamped envelope bearing the mailing address of the party.

(C) **Endorsement:** With all proposed orders, the proponent shall file either:

- (1) **Certification of Endorsement by All Parties:** A certification that the proposed order has been endorsed by all necessary parties, or
- (2) **Proof of Service:** A certification that the proposed order has been served upon all necessary parties, and indicating the date and manner of such service.

(D) **Form and Content:** Any proposed order shall be sufficient in description to stand alone without reference to any motion, pleading or other paper.

(E) **Consent Orders:** In addition to meeting the requirements in (A), (B), (C) and (D) of this Local Rule, the proponent shall include with a proposed consent order a Certification of Endorsement stating that all necessary parties have endorsed the proposed order.

(F) **Order After Hearing or Trial:** Unless the Court specifies otherwise, the prevailing party shall, in addition to the requirements in (A), (B), (C) and (D) of this Local Rule, prepare a proposed order and file the same with the Court within ten days after the conclusion of the trial, hearing, or other disposition of the matter at issue.

Comment

Changes effective 1/1/97

Parties need to submit a stamped envelope for panel trustees.

RULE 9070-1 EXHIBITS

(A) **Numerous Exhibits:** Whenever the exhibits in any case, to be presented by either party, exceed fifteen, the party intending to offer such exhibits shall place them in a binder, properly tabbed, numbered and indexed, unless otherwise ordered by the Court.

(B) ***Listing and Marking Exhibits:*** All exhibits, except such as are prepared in open court or by expert witnesses, must be listed in the final pretrial order in any adversary proceeding and shall be marked by the proponent thereof, in the manner specified by the Clerk, prior to the commencement of the trial unless the Court otherwise directs. Such exhibits, unless too large, shall be seen by opposing counsel at or before the final pretrial conference. At any final pretrial conference, the Court may rule upon the admissibility of any exhibit or reserve ruling thereon. Exhibits agreed upon shall be admitted in evidence; all others shall be considered as numbered and marked for identification.

(C) ***Custody and Disposition of Models and Exhibits:***

(1) ***Custody:*** After being marked for identification, exhibits of a documentary nature offered or admitted into evidence in any cause pending or tried in this Court shall be placed in the custody of the Clerk unless otherwise ordered by the Court. All other exhibits, models, and material not offered and admitted into evidence shall be retained in custody of the attorney or party producing same at trial, unless otherwise directed by the Court.

(2) ***Removal:*** Whenever any models, diagrams, exhibits or material have been placed in custody of the Clerk for introduction into evidence, and same are not admitted or marked for identification, such articles shall be removed by the party who filed them with the Clerk, unless otherwise directed by the Court, immediately following the conclusion of the trial or settlement of the case.

(D) ***Disposition of Exhibits:*** All exhibits, models, diagrams, depositions, transcripts, briefs, tables, charts or other items or material or things, introduced, tendered or marked in the trial of a matter or filed with or delivered to the Clerk in anticipation of their introduction into evidence or for use at trial, shall be withdrawn by the parties to the litigation or their counsel within thirty days after the judgment and the time for appeal or motion for a rehearing or further hearing shall have passed. If such items, material or things are not so removed within the time stated, the Clerk may forward them to counsel or the party entitled thereto, or shall destroy or make such other disposition or use of them as the Clerk may deem appropriate.

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